

AMENDED  
LOCAL BANKRUPTCY RULES  
WESTERN DISTRICT OF WASHINGTON

**ADOPTED BY GENERAL ORDER NO. 2008-1**

**July 1, 2008**

**[Applicable to All Cases effective July 1, 2008]**

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## **RULE 1006-1. FILING FEE: WAIVER OR INSTALLMENTS**

**(a) Waiver of Filing Fee.** An application by an individual Chapter 7 debtor for waiver of the Chapter 7 filing fee shall be made by filing Official Form B3B with the voluntary petition. Local Rule W.D. Wash. CR 3(b) shall not apply in bankruptcy cases.

**(b) Payment by Installments.** If the debtor is unable to pay the filing fee except in installments, the debtor must file an Application to Pay Filing Fees in Installments (Official Form 3A) at the time of the filing of the petition.

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## **RULE 1007-1. LISTS, SCHEDULES, STATEMENTS**

### **(a) Extension of Time to File Schedules and Statements.**

(1) A motion for extension of time to file schedules, statements, and documents required by Interim Fed.R.Bankr.P. 1007(b)(1)(A), (B), (C), (D), (F), (b)(4), (b)(5) and (b)(6) shall be filed prior to the expiration of the deadline for filing. Such a motion shall be made on 7 days' notice to those specified in Interim Fed.R.Bankr.P. 1007(c), and to entities requesting notice pursuant to Interim Fed.R.Bankr.P. 2002(i). If no objection is timely filed, an order may be presented *ex parte*. The motion shall contain:

- (A) the date the petition was filed;
- (B) the date the schedules and statements are due;
- (C) the date set for the § 341 meeting of creditors; and
- (D) the reason for the delay.

(2) The court shall not extend the date for filing schedules, statements, and documents to a date within 7 days of the § 341 meeting of creditors, unless the debtor has arranged with either the trustee or the United States trustee for a continuance of the meeting and mails to all creditors notice of the continuance of the meeting and the extension of time to file schedules and statements.

(3) Debtors on active military duty must so indicate on Schedule I, and those going on active duty or being deployed after the filing of the voluntary petition for a period to exceed 14 days must file notice setting forth the beginning and end dates of the active duty or deployment, and any new or additional address, attaching a copy of the orders to or official documentation of the active duty or deployment with social security numbers redacted to show only the last four digits, and the names (other than the issuing official) and social security numbers of any non-debtors completely redacted.

**(b) Schedules Required in Converted Cases.** Where a chapter 7, chapter 13, chapter 12, or individual chapter 11 case is converted to another chapter, the debtor shall be required to file amended schedules, statements, and documents required by Interim Fed.R.Bankr.P. 1007(b)(1), (4), (5), and (6), or a declaration under penalty of perjury that there has been no change in the schedules, statements, and documents; *provided*, however, that a statement of current monthly income (means testing form) is not required if the time for filing a motion under 11 U.S.C. § 707(b) or (c), or any extension thereof, expired while the case was pending under chapter 7.

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**RULE 1009-1. AMENDMENTS TO PETITION, LISTS, SCHEDULES AND STATEMENTS**

**(a) Case Name and Number; Verification.** The debtor's name and the case number shall appear on the first page of any amended petition, schedule, statement, or list. Any amendment shall be verified in the same manner as required for the original document.

**(b) Amendment of Petition to Add Party or to Change a Debtor's Name.** The name of an original debtor, as stated in the case caption, may be amended by *ex parte* motion. A petition may not be amended after filing to add a spouse as a joint debtor or to substitute a party for a debtor unless so ordered after a motion, on notice and hearing.

**(c) Addition of Creditors.**

(1) *Duty to Supplement Master Mailing List.* A supplemental mailing list shall be filed with any schedule that contains additions to a prior list or schedule of creditors or other interested parties.

(2) *Notice of Amendment.* If the debtor amends the schedules of creditors after the § 341 meeting notice has been mailed, but before the § 341 meeting occurs, the debtor shall mail to any creditors added by the amendment a notice of the amendment, together with a copy of the § 341 meeting notice. The notice of amendment shall inform the creditor that, on motion by the creditor made before the expiration of any applicable deadlines set forth in the § 341 meeting notice, the court may for cause extend the time for filing (A) proofs of claim, (B) objections to the debtor's exemptions, (C) complaints objecting to discharge, and (D) complaints to determine the dischargeability of a debt.

(3) *Fee for Amending Schedules.* Except in chapter 13 cases, every amendment to a debtor's schedules of creditors or equity security holders shall be accompanied by the fee prescribed by the Judicial Conference of the United States.

**RULE 1017-1. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS**

**(a) Dismissal for Failure to File Documents.** If a debtor in a voluntary case fails to file a Voluntary Petition (Official Form 1), or to file with the petition the documents and/or information required by Interim Fed.R.Bankr.P. 1007(b)(3), the court may dismiss the case, provided that the docket shows that the debtor was given 5 days' notice of this provision.

**(b) Dismissal for Failure to File Schedules, Statements, and Lists, or for Failure to Attend § 341 Meeting of Creditors.** If a debtor in a voluntary case fails timely to file the required schedules, statements, and other documents required by Interim Fed.R.Bankr.P. 1007(b)(1) [except for (b)(1)(E)], (4), (5), and (6), or fails to appear at the § 341 meeting of creditors, the United States trustee may apply for an order of dismissal; *provided* that the docket shows that the debtor was notified of this provision, as well as the deadline for filing the documents and/or the date and time of the meeting, and the debtor has not filed a motion seeking an extension of time pursuant to Local Bankruptcy Rule 1007-1(a). If, in a joint case, only one spouse appears at the § 341 meeting, the United States trustee may apply for an order dismissing the case as to the nonappearing spouse.

**(c) Small Business Debtors.** If a small business debtor fails to comply with its obligations under 11 U.S.C. § 1116(1), the court may dismiss the case, provided that the docket contains proof that the debtor was given 5 days' notice of this provision.

**(d) Motions to Vacate--Notice Requirement.** A motion to vacate an order of dismissal entered pursuant to this rule shall be noted for hearing pursuant to Local Bankruptcy Rule 9013-1 and shall be served on any trustee appointed in the case and all additional parties in interest.

**(e) Applicability of Rule.** This rule shall not apply in cases converted from one chapter to another.

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**RULE 1072-1. PLACES OF HOLDING COURT**

**(a) Case Filings.** All cases in which the debtor resides, or has its principal place of business or principal assets, in the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Pierce, Skamania, Thurston and Wahkiakum, shall be filed at Tacoma. All other cases shall be filed at Seattle.

**(b) Filing of Papers.** All pleadings and papers shall be filed where the case is filed.

(c) **Calendaring.** Unless otherwise ordered by the court, motions shall be noted for hearing as follows:

<b>Debtor's County of Residence/ Principal Place of Business or Assets</b>	<b>Calendar</b>
<b>1. Chapter 7 Cases</b>	
Island, San Juan, Skagit, Snohomish, Whatcom	Marysville
Clallam, Jefferson, Kitsap	Port Orchard
King	Seattle
Grays Harbor, Lewis, Mason, Pierce, Thurston	Tacoma
Clark, Cowlitz, Pacific, Skamania, Wahkiakum	Vancouver
<b>2. Chapter 9, Chapter 11, Chapter 12 and Chapter 15 Cases</b>	
Clallam, Island, Jefferson, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	Seattle
Grays Harbor, Lewis, Mason, Pierce, Thurston	Tacoma
Clark, Cowlitz, Pacific, Skamania, Wahkiakum	Vancouver
<b>3. Chapter 13 Cases</b>	
King	Seattle
Island, San Juan, Skagit, Snohomish, Whatcom	Marysville
Clallam, Jefferson, Kitsap	Port Orchard
Mason, Grays Harbor, Lewis, Pierce, Thurston,	Tacoma
Clark, Cowlitz, Pacific, Skamania, Wahkiakum	Vancouver

(d) **Change of Hearing Location.** The place of hearing may be changed for a case or adversary proceeding on notice and hearing, with notice to all creditors or all parties

in an adversary proceeding. The place of hearing may also be changed by the court in the event that the case is reassigned to another judge.

- (e) **Telephone Hearings.** Local Bankruptcy Rule 9074-1 applies.
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#### **RULE 1073-1. ASSIGNMENT OF CASES**

(a) **Case Assignment.** All cases shall be assigned by the clerk of court to the respective judges of the court. Assignments shall be made on a random basis, including reassignments where necessitated by the recusal or absence of the assigned judge, except in cases filed under chapter 13 and cases assigned according to geographic locale. Related cases may be assigned to the same judge on motion of a party in interest made in accordance with Local Bankruptcy Rule 9013-1, or at the discretion of the court; *provided*, however, that a debtor or petitioning creditor may bring such a motion *ex parte*, if notice of the bankruptcy has not yet been sent to creditors. Adversary proceedings shall be assigned to the judge to whom the case has been administratively assigned.

(b) **Temporary Reassignments.** A case assigned to a particular judge may be temporarily reassigned to another judge if the judge to whom the case is assigned is unavailable and an emergency exists that requires prompt action of the court. The case will be temporarily reassigned by the clerk of court and the reassignment shall be for the limited purpose of the particular motion or hearing.

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#### **RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES**

(a) **Entities Responsible for Giving Notice.** Unless otherwise ordered by the court, all notices shall be given by the party requesting relief, except that the clerk of court shall be responsible for providing the following notices:

(1) notice of the § 341 meeting of creditors, pursuant to Interim Fed.R.Bankr.P. 2002(a)(1), and those notices described in Interim Fed.R.Bankr.P. 2002(f), except that the debtor or movant in a chapter 11 shall give notice of the deadline for filing claims and the time fixed for accepting or rejecting a plan, and

(2) notice pursuant to Interim Fed.R.Bankr.P. 2002(q)(2) of the court's intention to communicate with a foreign court or foreign representative as prescribed by Interim Fed.R.Bankr.P. 5012.



**(b) Delivery of Clerk of Court's Notices.** The clerk of court may give notice through the electronic filing system (ECF) or through the Bankruptcy Noticing Center or similar service.

**(c) Large Cases.** When a case involves an unusually large number of creditors such that giving notice will unduly burden the clerk of court's office, the clerk of court may require the party initiating the case to provide assistance in preparing and mailing notices.

**(d) Use of Master Mailing List for Noticing.** Parties may obtain copies of a master mailing list, as well as a list containing the names and addresses of each entity requesting special notice pursuant to Interim Fed.R.Bankr.P. 2002(i), updated in accordance with Interim Fed.R.Bankr.P. 2002(g), from ECF, or through the court's public information access service ("PACER"). Alternatively, parties may obtain a master mailing list from the clerk of court for a fee in an amount prescribed by the Judicial Conference of the United States. Notice is presumed to be adequate if mailed to all entries on the master mailing list, *provided* that the list is current to within 20 days of mailing as evidenced by (1) the notation on the list showing the date it was extracted from ECF or PACER, (2) counsel's verification in the affidavit of service, or (3) clerk of court's certification.

**(e) Notices to Creditors Whose Claims are Filed.** In a chapter 7 case, after expiration of the deadline for filing claims and entry of an order allowing or disallowing claims, all notices required to be given to creditors pursuant to Interim Fed.R.Bankr.P. 2002(a)(2), (3), and (6), and 2002(f)(8), may be limited to creditors whose claims have been filed and creditors who are still permitted to file claims by reason of an extension granted by the court.

**(f) Notice of Motion.** Local Bankruptcy Rule 9013-1(c) applies.

**(g) Special Notice to Taxing Agencies.** Local Bankruptcy Rule 4001-2(b) applies.

**(h) Preferred Address under 11 U.S.C. § 342.**

(1) An entity and a notice provider may agree that when the notice provider is directed by the court to give a notice to that entity, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law. The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor directly with the agency or agencies that provide noticing services to the bankruptcy court will constitute the filing of such a notice with the court. Registration with the National Creditor Registration Service must be accomplished through the agency that provides noticing services for the bankruptcy court. Forms and registration information are available at [www.ncrsuscourts.com](http://www.ncrsuscourts.com).

(2) A local form for use by creditors in filing a notice of preferred address under 11 U.S.C. § 342(e) is available on the court's website at [www.wawb.uscourts.gov](http://www.wawb.uscourts.gov). The form may be filed electronically using the proper electronic filing event for § 342(e) notices, or delivered in paper form to the clerk of court and served on the debtor.

(i) **Electronic Notice.** Notice given electronically shall comply with General Order No. 3 and the court's Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means, as each is amended from time to time.

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**RULE 2003-1. MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS**

(a) **Proof of Identification and Social Security Number.** Individual debtors must provide an acceptable form of picture identification ("ID") and proof of social security number to the trustee at the meeting of creditors. Acceptable forms of ID include:

- (1) driver's license;
- (2) government ID;
- (3) state picture ID;
- (4) student ID;
- (5) U.S. Passport;
- (6) military ID;
- (7) resident alien card; and
- (8) consulate card.

Acceptable forms of proof of social security number include:

- (1) social security card;
- (2) medical insurance card;
- (3) pay stub;
- (4) W-2 form;
- (5) Internal Revenue Service Form 1099; and
- (6) Social Security Administration report.

(b) **Personal Appearance Required.** The debtor, including each debtor in a joint case, is required to appear at the § 341 meeting of creditors, unless the court, on motion of the debtor for good cause, permits an alternative method of examination.

(1) *Motion - Timing.* A motion for alternative appearance shall be filed at least 10 days prior to the originally scheduled § 341 meeting.

(2) *Motion - Contents.* The motion shall contain the following information:

- (A) the date of the originally scheduled § 341 meeting;
- (B) the proposed alternative method of examination; and
- (C) a certification that the debtor has provided to the trustee the identifying documentation required by subsections (a) of this Rule and the financial documentation required by Fed.R.Bankr.P. 4002-1.

(3) *Affidavit or Declaration.* The motion shall be supported by the debtor's affidavit or declaration under penalty or perjury containing the following:

- (A) a detailed factual explanation of the exceptional circumstances preventing the debtor from appearing in person;
- (B) the length of time the debtor's absence or disability is expected to last and a statement of the reasons the debtor or creditors would be prejudiced if the § 341 meeting were continued to such time as the debtor is able to appear in person; and
- (C) if the debtor proposes to submit written interrogatories in lieu of attendance, a statement of the reasons why the debtor cannot appear by telephone.

(4) *Documentation.* The motion shall be supported by the additional documentation, as applicable:

- (A) *Illness or Disability.* If the debtor is seeking a waiver of personal appearance on the grounds of illness or disability, the debtor shall provide a statement by the debtor's health care provider as to the debtor's condition and the length of time the condition is expected to last;
- (B) *Military Duty.* The debtor shall comply with Local Bankruptcy Rule 1007-1(a)(3); or
- (C) *Interrogatories.* A debtor seeking leave to appear by written interrogatories shall file with the motion proposed interrogatories.

(5) *Proposed Order.* A proposed order for alternative examination shall include the following provisions:

- (A) that the debtor shall arrange for and bear the expense of any telephonic § 341 meeting; and
- (B) that the debtor shall provide additional documentation and/or interrogatories as requested by the trustee and other parties in interest, within 10 days of the request.

(6) *Ex Parte Applications.* Debtors seeking an order *ex parte* shall, prior to submitting the motion to the court, serve the motion and supporting documentation on the trustee and United States trustee, and certify that at least 5 days have passed since the motion was served, and that no objection has been made by the trustee or United States trustee to the application. For the purposes of this rule, service may be made by facsimile or email.

(7) *Conclusion of Meeting.* For purposes of the timing of objections to exemptions under Fed.R.Bankr.P. 4003(b), the United States trustee's statement of presumed abuse under § 707(b)(1) and motion to dismiss under § 707(b)(2) and § 704(b)(1), the conclusion of the § 341 meeting shall be indicated by the trustee's entry on the docket that (A) there are no assets available for distribution and that the case is fully administered, or (B) the meeting of creditors was concluded and the trustee is investigating the existence of assets.

### **Committee Comment**

The proposed subsection (a) codifies the United States trustee's Debtor ID initiative.

Subsection (b) establishes new procedures and standards for obtaining a waiver of personal appearance at the § 341 meeting. It was proposed by the U.S. Trustee and codifies its current policy for objecting to such motions.

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## **RULE 2014-1. EMPLOYMENT OF PROFESSIONALS**

**(a) Requirements.** Applications for the appointment of professionals shall disclose whether the professional is a pre-petition creditor of the debtor, and if so, the nature of services rendered, amount owed, whether counsel claims a security interest in property of the estate to secure fees, and identify the collateral subject to the security interest, if any. The application shall also state whether any retainer has been paid or promised, and the anticipated method of compensation, and sources thereof, including third parties and guarantors. Copies of any fee agreements and security interests shall be attached as exhibits. Retainers may not be drawn from trust or compensation paid by any source absent an order approving compensation and/or reimbursement and authorizing application of the retainer. Each application for employment shall contain a certification that the applicant has read Local Bankruptcy Rule 2016-1.

**(b) Ex Parte Applications.** Professionals seeking appointment on an *ex parte* basis shall, prior to filing the application for approval to the court through the electronic case filing system or by filing an document, (1) obtain the written endorsement of the United States trustee's Office of the application, or (2) certify that at least 5 days have

passed since the application was served upon and received by the United States trustee's Office, and no objection has been made by the United States trustee's Office to the application. For purposes of this rule, the United States trustee's Office will accept service by facsimile or electronically at [USTPRegion18.SE.ECF@usdoj.gov](mailto:USTPRegion18.SE.ECF@usdoj.gov). *Ex parte* orders authorizing the appointment of professionals do not constitute approval of the terms of any fee agreement or arrangement.

**(c) Chapter 13 Cases.** Local Bankruptcy Rule 2014-1(a) and (b) shall not apply to general counsel for the debtor in a chapter 13 case. The rule shall apply to applications for employment of professionals submitted by the chapter 13 Trustee. All other *ex parte* applications for employment in a chapter 13 case shall comply with these provisions, except that the applications shall be submitted to the chapter 13 Trustee's office rather than the United States trustee's office.

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## **RULE 2015-1. DEBTOR IN POSSESSION DUTIES**

**(a) Chapter 11 Monthly Financial Reports.** A chapter 11 debtor in possession or trustee shall file with the court and serve a monthly financial report on the United States trustee and each member of any committees elected or appointed pursuant to the Bankruptcy Code and to their authorized agents. Each report shall be due by the 15th day of the subsequent month and, except as otherwise ordered by the court, shall include the following:

- (1) balance sheet;
- (2) income statement;
- (3) statement of cash receipts and disbursements;
- (4) statement of accrued receivables (the statement shall disclose amounts considered to be uncollectible);
- (5) statement of post-petition accrued payables, including professional fees (the statement shall list the name of each creditor and the amounts owing and remaining unpaid for over 30 days);
- (6) tax disclosure statement (the statement shall list post-petition taxes due or tax deposits required, the name of the taxing agency, the amount due, the date due, and an explanation for any failure to make such payments or deposits);
- (7) compensation statement (the statement shall disclose the amount of compensation paid to all insiders, as defined in 11 U.S.C. § 101(31)).

**(b) Other Reporting Requirements.** The chapter 11 debtor in possession or chapter 11 trustee shall serve copies of the following on the United States trustee and any committee:

(1) the debtor's federal income tax returns. The debtor shall provide the most recently filed return within 15 days after the entry of the order for relief, and its returns for each subsequent year whenever such returns are submitted to the Internal Revenue Service;

(2) proof of insurance covering estate assets and liability, if applicable. The debtor in possession shall provide initial proof of insurance within 5 days after entry of the order for relief and proof of any insurance renewals thereafter as obtained; and

(3) monthly bank statements for any debtor in possession bank accounts, as received.

If the debtor in possession fails to comply with any of the requirements of this subparagraph, the United States trustee may move to compel compliance on 5 days' notice to the debtor in possession, the debtor in possession's attorney, and any committee.

**(c) Chapter 11 Post-Confirmation Reports.** If an application for a final decree has not been filed within 3 months after confirmation of a chapter 11 plan, then the party designated in the plan as the responsible party, such as the reorganized debtor, liquidating trustee, plan proponent, or plan administrator, shall file a post-confirmation report within 3 months after entry of the order confirming the plan of reorganization, and every 3 months thereafter until a final decree has been entered. The post-confirmation report shall disclose progress of the plan toward consummation and shall include the following:

(1) a summary, by class, of amounts distributed or property transferred to each recipient under the plan, and an explanation of the failure to make any distributions or transfers of property under the plan;

(2) the plan proponent's projections as to the debtor in possession's continuing ability to comply with the terms of the plan;

(3) a report of any pending or anticipated litigation, including the nature of each matter, the parties involved, and an estimated date when the matter will be resolved;

(4) a description of any other factors that may materially affect the debtor in possession's ability to consummate the plan; and

(5) an estimated date when an application for final decree will be filed with the court.

**RULE 2016-1.            COMPENSATION OF PROFESSIONALS**

**(a)     General.** Unless otherwise ordered by the court, all applications for compensation for services and for reimbursement of necessary expenses incurred in providing those services shall be served on the debtor, trustee, and, when required by Fed.R.Bankr.P. 2002(a)(6), on all parties in interest, and shall be accompanied by an affidavit or declaration containing the following:

- (1)     the date of entry of the order approving the applicant's employment;
- (2)     a statement, by date, of the amounts of compensation and reimbursement of expenses previously allowed and amounts paid;
- (3)     the source of payment for requested compensation and reimbursement of expenses;
- (4)     the amount of unencumbered funds in the estate;
- (5)     a narrative summary of the services provided, results obtained and benefit to the estate;
- (6)     an itemized time record of services for which an award of compensation is sought, including:
  - (A)     the date the service was rendered;
  - (B)     the identity of the person who performed the service and the hourly rate of such individual;
  - (C)     a detailed description of the service rendered and the time spent performing the service;
  - (D)     the total number of hours spent and the total amount of compensation requested; and,
- (7)     a statement of expenses, by category, for which reimbursement is sought. For extraordinary expenses, state:
  - (A)     the date the expense was incurred;
  - (B)     a description of the expense;
  - (C)     the amount of the expense requested; and
  - (D)     the necessity of the expense.

**(b) Counsel for Trustees and Debtors in Possession.** Where compensation is sought by counsel for a trustee or debtor in possession, the application shall include a list of names and functions of all other professionals whose employment has been authorized in the case.

**(c) Requests for Interim Compensation.** In any case in which interim compensation is sought, the application shall include the following additional information:

(1) the financial condition of the estate with respect to payment of post-petition expenses, including quarterly taxes and the United States trustee's quarterly fee, as well as significant impediments to plan confirmation, and general prospects for reorganization;

(2) a projection of the applicant's future expenses and fees and the anticipated source of their payment; and

(3) the status of the case, and the progress of the case toward closing or proposal of a plan of reorganization. If a plan has been filed, the statement shall include a projected date for confirmation. If a plan has been confirmed, the statement shall describe what progress has been made toward consummation of the plan and what remains to be done to close the case.

**(d) Applications of \$15,000 or More.** Where the cumulative applications equal or exceed \$15,000, the narrative summary required by subsection (a)(5) and itemized time entries required by subsection (a)(6) shall be divided into general categories according to the nature of the tasks performed, with the total hours, fees, and expenses broken down for each category. Required categories include but are not limited to time spent prior to the filing for which the applicant was not paid; general administration; objections to claims; sales of assets; disclosure statement and plan, including drafting and confirmation; and major adversary proceedings.

**(e) Preconfirmation Fees in Chapter 13 Cases.**

(1) *Presumptive Fee.* Attorneys representing debtors in Chapter 13 cases may be awarded fees of up to \$1,800 (or such other amount as may be set by general order) (the "presumptive fee") without having first filed a written application. The fee shall be compensation for all services rendered to the debtor(s) through entry of the order confirming plan and shall include, without limitation: the filing of a chapter 13 plan in the form required by Local Bankruptcy Rule 3015-1; filing with the chapter 13 Trustee the Chapter 13 Information Sheet together with the documents required by Interim Fed.R.Bank.P. 1007; appearing at the § 341 Meeting of Creditors; responding to objections to confirmation and motions for relief from stay that are resolvable without argument before the court; negotiating and presenting unopposed or agreed orders assuming or rejecting leases, resolving disputes regarding the valuation of collateral or providing for pre-confirmation adequate protection payments to creditors; amending the initial plan as



necessary to obtain an order confirming the plan; adding creditors to the schedules and plan; negotiations with the Department of Licensing; and review of the trustee's statement of filed claims.

(2) *Fees in Excess of Presumptive Fee.* Pre-confirmation attorneys' fees in excess of the presumptive fee may be requested by motion at any time before the confirmation order is entered, provided the fee request is accompanied by an itemized breakdown of time and is filed in the form and manner required by Local Bankruptcy Rule 2016-1(f).

**(f) Chapter 13 Fee Applications.** In chapter 13 cases, all applications for compensation for services and for reimbursement of necessary expenses in excess of \$1,000 shall be served on the debtor, the chapter 13 Trustee, all creditors holding allowed claims and all parties requesting notice pursuant to Interim Fed.R.Bankr.P. 2002, and shall include the following:

(1) a statement, by date, of the amounts of compensation and reimbursement of expenses previously allowed and amounts paid;

(2) a narrative summary of the services provided;

(3) an itemized time record of services for which an award of compensation is sought, including:

(A) the date the service was rendered;

(B) the identity of the person who performed the service and the hourly rate of such individual;

(C) a detailed description of the service rendered and the time spent performing the service;

(D) the total number of hours spent and the total amount of compensation requested;

(4) an explanation of the effect the additional compensation will have on the plan and plan disbursements to creditors; and

(5) an itemized time record for all services provided since the date the case was originally filed.

**(g) Ex Parte Fee Applications in Chapter 13 Cases.** In chapter 13 cases, an application for compensation and reimbursement of expenses for \$1,000 or less shall be served on the chapter 13 Trustee, the debtor, and all parties requesting notice pursuant to Interim Fed.R.Bankr.P. 2002. In addition to including the information set forth in paragraph

(f) above, such application shall include all services rendered and expenses incurred up to a specified date not more than 15 days before the date of the application, and in the case of a post-confirmation application, shall include a certification that no pre-confirmation services are included in the application and that the fee set forth in paragraph (e) above has been earned. The application shall be served at least 20 days before an *ex parte* order approving the sum requested is filed through the chapter 13 Trustee.

Only one *ex parte* application may be made per case for services rendered post-confirmation.

#### **Committee Comment**

The change in subsection (g) is to conform to the change in Fed.R.Bankr.P. 2002(a)(6).

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#### **RULE 2083-1. CHAPTER 13 PROOFS OF CLAIM**

All proofs of claim shall be filed with the clerk of court. The chapter 13 Trustee shall promptly forward to the clerk of court any original proofs of claim received by the chapter 13 Trustee; provided that the chapter 13 Trustee shall not be responsible for the timeliness of the filing of a proof of claim where the filer has failed to timely file the original with the clerk of court.

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#### **RULE 2090-1. LEGAL INTERNS**

GR 2, subsection (i) of the Local Rules W.D. Wash., as modified by this rule, applies:

**(a) Application.** An application to appear as a legal intern shall be submitted to a bankruptcy court judge for approval or disapproval.

**(b) Proceedings.** In addition to those proceedings identified in GR 2(i)(3)(D), a legal intern may participate in § 341 meetings and examinations under Fed.R.Bankr.P. 2004, provided that the supervising lawyer or another lawyer from the same office shall be present while the legal intern is participating in those proceedings.

**(c) Supervision.** In the case of a clinical course offered by an approved law school where such course has been approved by its dean and is directed by a member of its faculty, a lawyer who is not a member of the law school faculty, but who is acting as a

mentor or supervisor in connection with such course, may have supervision over 10 legal interns at one time.

**(d) Rule 9 Interns.** Notwithstanding anything in this Rule 2090-1, any individual who has been granted a limited license to practice law in Washington State pursuant to Rule 9 of the Washington State Admission to Practice Rules (“Rule 9 Intern”), may appear in the United States Bankruptcy Court for the Western District of Washington in the manner provided in Rule 9 as if such court were specifically identified in Subsection (b)(4) of Rule 9. A Rule 9 Intern appearing in this court shall comply with and be bound by all of the provisions of Rule 9.

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**RULE 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS - BAR DATE**

Except in small business cases, prior to the first date set for hearing on a disclosure statement, a chapter 11 plan proponent shall apply for an order fixing a deadline by which proofs of claim or interest must be filed. The plan proponent in a small business case shall apply for said order no later than upon application for conditional approval of the disclosure statement. Upon entry of the order, the plan proponent shall transmit to each creditor and equity security holder a copy of the order or notice containing such deadline. Notice of the deadline shall be a separate document.

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**RULE 3007-1. CLAIMS - OBJECTIONS**

**(a) Chapter 11 Cases.** Unless otherwise ordered by the court, objections to claims in chapter 11 cases must be filed and served no later than 60 days after the entry of the order confirming a plan.

**(b) Chapter 13 Cases.**

(1) *Objections.* Objections to claims in chapter 13 cases must be filed and served no later than 270 days from the petition date, unless good cause is shown.

(2) *Late-Filed Claims.* In chapter 13 cases, except as provided in 11 U.S.C. § 502(b)(9), proofs of claim filed after the claims bar date will be disallowed without need for formal objection or a hearing, if the chapter 13 Trustee sends a notice to the late filing creditor substantially in the form of Local Bankruptcy Form 3, unless the

creditor serves and files a motion to allow the late filed claim within 20 days of being served with said notice.

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**RULE 3015-1. CHAPTER 13 PLAN**

**(a) Chapter 13 Plan.** All chapter 13 plans (original and amended), filed in cases commencing on or after October 17, 2005, shall conform to Local Bankruptcy Form 13-3. Any plan or amended plan filed in a chapter 13 case commenced before October 17, 2005 shall conform to Local Bankruptcy Form 13-1. All appropriate blanks on the form shall be completed including any additional provisions which shall be set forth where indicated in the form plan. The last four digits of the debtor's social security number shall be provided where indicated and, if the plan provides for or affects traffic or criminal fines, forfeitures, or sanctions, the debtor's dates of birth. The debtor and the debtor's attorney (if represented by counsel) shall sign and date where indicated.

**(b) Other Plan Provisions.** Any additional provisions included in paragraph 10 of the plan, which modify any of the provisions contained in paragraphs 1 through 10, shall begin by specifically referencing the paragraph(s) modified, such as "Paragraph 5 is modified as follows..."

**(c) Notice of the Plan.**

(1) Upon filing of a petition and a master mailing list as required by Interim Fed.R.Bankr.P. 1007(a), the clerk of court shall mail notice of the § 341 meeting of creditors.

(2) If the plan is filed at the same time as the petition, the clerk of court shall also mail a copy of the plan to all creditors.

(3) If the plan is filed after the petition, the debtor shall serve copies of the plan to all creditors not less than 14 days prior to the originally scheduled meeting of creditors. Nothing in this subsection excuses compliance with Fed.R.Bankr.P. 3015(b).

**(d) Objections to Confirmation.** Objections to confirmation must be filed and served on the debtor's counsel (or the debtor if unrepresented), chapter 13 Trustee, and any other entity designated by the court, not less than 7 days prior to the originally scheduled confirmation hearing date. In the event the objection to confirmation is going to be argued, the party making the objection shall confirm the hearing pursuant to Local Bankruptcy Rule 9013-1(b)(5). Local Bankruptcy Rule 9013-1(d)(6) governs any reply.

(e) **Chapter 13 Information Sheet.** At the time the petition is filed the debtor shall submit to the trustee a complete Chapter 13 Information Sheet (Local Bankruptcy Form 13-2, amended).

(f) **Domestic Support Obligations.** The chapter 13 Trustee shall commence payment on filed claims for current domestic support obligations as soon as unencumbered funds become available, unless otherwise directed by the terms of the proposed plan.

(g) **Domestic Support Certification.** In all cases filed on or after October 17, 2005, within 30 days of completion of all plan payments, debtors must file certifications stating either (1) that they are not liable for any domestic support obligation; or (2) that all domestic support obligations payable by them that became due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) under any judicial or administrative order, or by statute, have been paid. Failure to file the certification will result in the case being closed without a discharge.

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**RULE 3017-1. DISCLOSURE STATEMENT - APPROVAL**

(a) **Objection to Disclosure Statement.** Unless otherwise ordered by the court, objections to a disclosure statement in a chapter 11 case shall be filed and served not later than 7 days before the hearing on the disclosure statement. The objection shall identify those portions of the disclosure statement that the objecting party asserts are incomplete, misleading, or erroneous, and the basis for such assertions.

(b) **Conference of Attorneys.** Not later than 5 days before the hearing on the disclosure statement, there shall be a conference of attorneys. It shall be the duty of counsel for the proponent of the disclosure statement ("proponent") to arrange for the conference. The attorney for each objecting party shall attend the conference, either in person or telephonically. At the conference, counsel shall attempt to reach agreement on changes to the disclosure statement.

(c) **Summary of Objections to Disclosure Statement.** Unless otherwise ordered by the court, the plan proponent's counsel shall file a summary of those objections to the disclosure statement that have not been resolved at the conference of attorneys. The summary shall be filed and served on the objecting parties at least 3 days prior to the hearing on such statement. If the disclosure statement hearing is continued, an amended summary of objections shall likewise be filed and served at least 3 days prior to the continued hearing.

**(d) Notice of Hearing on Disclosure Statement.** The proponent's notice of hearing on the disclosure statement shall include the time within which objections must be served under subsection (a) of this rule, and the date, time and place of the conference of attorneys required by subsection (b) of this rule.

**(e) Hearing on Disclosure Statement.** Failure by an objecting party or proponent to comply with the provisions of this rule may be deemed by the court to be an admission that the objection, or the opposition thereto, is without merit.

**(f) Small Business Cases.** Local Bankruptcy Rule 3017.1-1 applies.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted for time periods less than 8 days.

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### **RULE 3017-2. DISCLOSURE STATEMENT - SMALL BUSINESS CASES**

In a small business case, and upon application for conditional approval of the disclosure statement, the plan proponent shall obtain from the court and provide notice to all creditors on the master mailing matrix of the deadlines for filing objections to the disclosure statement, the deadline for the pre-confirmation report under Local Bankruptcy Rule 3020-1(a), and the deadline for filing and serving objections to confirmation of the plan under Local Bankruptcy Rule 3020-1(b).

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### **RULE 3018-1. BALLOTS - VOTING ON PLANS**

At least 3 days prior to the confirmation hearing, the plan proponent shall file a written summary of the ballots cast, and shall serve a copy of the summary on any party that has filed an objection pursuant to Local Bankruptcy Rule 3020-1. The summary shall contain a separate listing of acceptances and rejections and shall include the following information:

(a) the name of each creditor, whether said creditor has accepted or rejected the plan, the dollar amount of the creditor's claim, and whether the debtor has objected to the claim;

(b) the total dollar amount and number of all allowed claims voted;

(c) the percentage dollar amount of acceptances; and

(d) the percentage number of acceptances.

The original ballots shall not be filed with the court, but shall be retained by the attorney for the plan proponent for a period of not less than 5 years. Upon request, the original ballots must be provided to other parties or the court for review.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted for time periods less than 8 days.

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### **RULE 3020-1. CHAPTER 11 - CONFIRMATION**

**(a) Preconfirmation Report.** The plan proponent shall, not less than 3 days prior to the confirmation hearing, file a memorandum containing the proponent's response to any objections, and a statement as to how each requirement of 11 U.S.C. § 1129 is satisfied. The memorandum shall be served on the debtor, any committee appointed pursuant to the Bankruptcy Code or their authorized agents, and any party that has filed an objection to confirmation. If the confirmation hearing is continued, a revised preconfirmation report shall likewise be filed and served not less than 3 days prior to the continued hearing.

**(b) Objections to Confirmation.** Unless otherwise ordered by the court, objections to confirmation of a plan shall be filed and served at least 7 days before the hearing on confirmation of the plan.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted for time periods less than 8 days.

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### **RULE 4001-1. AUTOMATIC STAY**

**(a) Comfort Orders.** Any party seeking an order confirming the automatic termination of the stay pursuant to any applicable provision of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 must file a motion pursuant to Local Bankruptcy Rule 9013-1.

**(b) Rent Deposits Under § 362(l).** Any deposit of rent pursuant to 11 U.S.C. § 362(l)(1)(B), made by or on behalf of a debtor whose case was filed on or after October 17, 2005, must be in the form of a cashier's check or a money order payable to the order of the lessor, and delivered to the clerk of court upon filing of the petition and certification made under § 362(l)(1). The debtor must at the same time file a copy of the judgment of possession or eviction and proof of service of the certification under § 362(l)(1) upon the lessor. Upon receipt of the cashier's check or money order, the clerk of court will promptly transmit the check/money order to the lessor by certified mail/return receipt requested, at the address of the lessor as stated in the certification filed by the debtor under § 362(l)(1), unless the clerk of court is instructed in writing by the debtor or landlord to use a different address.

**(c) Motions For Relief From Stay.** Motions for relief from stay shall be filed pursuant to Local Bankruptcy Rule 9013-1 and must contain a statement of the factual basis for relief and the status of any pending foreclosure or action or matter for which relief from stay is sought. Where equity in real property is an issue, the motion and notice of motion shall contain a legal description and a common address.

**(d) Notice of Motions.** The moving party shall schedule the matter for hearing not less than 24 nor more than 30 days after the date such motion is filed. If the moving party schedules a hearing for or agrees to continue a hearing to a date more than 30 days after the date the motion was filed, the party shall be deemed to have waived the automatic termination provisions of 11 U.S.C. § 362(e)(1). In addition to those parties listed in Fed.R.Bankr.P. 4001, notice shall be given to the debtor, attorney for the debtor, trustee, and to any persons requesting special notice under Interim Fed.R.Bankr.P. 2002(i). In addition, any motion for relief from the codebtor stay pursuant to 11 U.S.C. § 1201 or 11 U.S.C. § 1301 shall be served upon the codebtors

**(e) Procedure for Motions Timely Controverted.** If the motion is timely and properly controverted, the originally scheduled hearing will be a final hearing with argument on the documents filed, unless an evidentiary hearing is required. In that event, the initial hearing may be a preliminary hearing at which the court may set a date for final hearing and enter such other orders as may be appropriate.

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**RULE 4001-2. CASH COLLATERAL**

**(a) Financing Guidelines.** The Guidelines for Cash Collateral and Financing Stipulations (Appendix A to these Rules, as may be modified from time to time and posted on the court's website) apply to all motions for approval of such stipulations, interim and final, and all motions for approval thereof must contain the certification of counsel required by the Guidelines.



**(b) Special Notice to Taxing Agencies.** Notice of all motions seeking approval of use of cash collateral or financing orders must be served on the United States Attorney's Office, Attn: Bankruptcy Assistant, 700 Stewart Street, Room 5220, Seattle, Washington 98101, and the Attorney General for the State of Washington, Bankruptcy and Collections Unit at 800 Fifth Avenue, 20<sup>th</sup> floor, Seattle, Washington 98104. The notice required by this rule is in addition to any other applicable notice and service requirements.

**(c) Scheduling Emergency Hearings.** Local Bankruptcy Rule 9013-1(d)(2)(E) applies.

**(d) Motion Practice.** Local Bankruptcy Rule 9013-1 applies.

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#### **RULE 4002-1. DUTIES OF DEBTOR**

The following rules apply in cases filed on or after October 17, 2005.

**(a) Payment Advices/Pay Stubs.** Unless otherwise ordered, the debtor shall not file with the court the payment advices and other evidence of payment required by 11 U.S.C. § 521(a)(1)(B)(iv), but shall instead deliver those documents to the trustee within the time required by Interim Fed.R.Bankr.P. 1007(c), and in the manner described in subsection (c) below. The debtor shall also provide a copy of those documents to any party in interest who requests in writing a copy.

**(b) Tax Returns.** Tax information filed with the court, whether pursuant to 11 U.S.C. § 521 or for any other reason, shall be subject to the procedures for safeguarding confidentiality established by the Director of the Administrative Office of the United States Courts, established pursuant to Interim Fed.R.Bankr.P. 4002(b)(5), and as may be amended from time to time. Any proposed order granting access to a debtor's tax information must contain the following language:

Movant is hereby advised that the tax information obtained is confidential and may not be disseminated except as appropriate under the circumstances of the case. Movant is further advised that substantial monetary sanctions (up to \$10,000 per disclosure without further notice) and other sanctions may be imposed by the Court for an improper use, disclosure, or dissemination of the tax information.

Requests for tax information filed with the court should be accompanied by a self-addressed, stamped envelope bearing sufficient postage.

**(c) Delivery of Documents to Trustee.**

(1) *Timing of Production and Declaration.* All documents required to be provided to the trustee by the debtor pursuant to 11 U.S.C. § 521(e)(2)(A)(i) and Interim Fed.R.Bankr.P. 4002(b)(2) and (3) shall be submitted at least 7 days prior to the date first set for the § 341 meeting of creditors. The documents shall be attached to the debtor's declaration, signed under penalty of perjury, stating that the documents are true copies of the originals.

(2) *Method of Production.* Except as provided in subsection (3) and unless otherwise instructed by the trustee, the declaration and documents shall be transmitted to the trustee as a PDF attachment to an email directed to the trustee at the email address referenced in the docket. The email shall reference the case number and the debtor's last name. The debtor's attorney shall retain the original, signed declaration pursuant to the rules governing pleadings filed electronically.

(3) *Exceptions to Production by Electronic Means.* Copies of the declaration and documents may be delivered to the trustee in conventional form by *pro se* debtors and where production of the documents electronically would be unduly burdensome.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted in time periods of less than 8 days.

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### **RULE 4003-1. DEPOSIT OF FUNDS IN THE REGISTRY OF THE BANKRUPTCY COURT**

(a) **Order for Deposit into Court Registry.** Except for deposits required by law or court order, a party desiring to deposit funds into the registry of the court must file an application, which shall include a detailed explanation of the facts and circumstances necessitating the deposit of estate funds into the registry. The application and a proposed order shall be delivered to the financial deputy clerk of court, who will review the proposed order for compliance with this rule prior to filing the proposed order with the court.

(b) **Proposed Orders Directing Deposit of Funds by Clerk of Court.** A proposed order directing the clerk of court to deposit funds into the registry of the court must include the following:

(1) the amount to be deposited;

(2) a direction to the clerk of court to deposit registry funds of \$25,000 or more in accordance with 31 C.F.R. Part 202;

(3) a direction to the clerk of court to deposit funds of less than \$25,000 into a non-interest bearing account with the U.S. Treasury; and

(4) language directing the clerk of court to deduct from the income earned on the deposit a fee as prescribed by the Judicial Conference of the United States, without further order of the court.

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#### **RULE 4008-1. REAFFIRMATION**

**(a) Time of Filing.** All reaffirmation agreements must be filed with the court prior to the date set in the notice of commencement of the case as the deadline for filing complaints to determine dischargeability or to deny discharge.

**(b) Form of Agreement.** The Official Form Reaffirmation Agreement (available on the court's website) must be completed for all reaffirmation agreements.

**(c) Documentation.** Copies of any agreements which the debtor has agreed to continue to perform or pay, together with any modifications of those agreements, shall be attached to the reaffirmation agreement together with documentation of any security interest and the perfection of such security interest or a memorandum setting forth why perfection is unnecessary and supporting declaration(s) establishing any required facts. If the reaffirmation is of a debt claimed to be nondischargeable, the creditor shall file a memorandum setting forth the basis for the nondischargeability, together with a declaration(s) establishing a prima facie case.

#### **Committee Comment**

The Official Form Reaffirmation Agreement is currently (July 2008) Form 240A.

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#### **RULE 5003-1. CLERK OF COURT - GENERAL/AUTHORITY**

**(a) Delegation of Ministerial Orders.** The clerk of court and such deputies as the clerk of court may designate are authorized to sign and enter without further direction the following orders, which are deemed to be of a ministerial nature:

- (1) orders on motions and applications of the type described in Fed.R.Civ.P. 77, except that the clerk of court is not authorized to grant orders or judgments for default;
- (2) orders permitting the payment of filing fees in installments and fixing the number, amount, and dates of payment;
- (3) orders discharging a trustee and closing a case after such case has been fully administered;
- (4) orders reopening cases that have been closed due to administrative error;
- (5) orders authorizing the trustee to pay expenses of administration of \$500.00 or less in chapter 7 cases; and
- (6) orders requiring debtors to file amended schedules in converted cases.

**(b) Administrative Regulations.** The clerk of court is authorized to promulgate regulations governing administrative matters, including the submission of forms, content and format of creditor mailing lists, mode of payment of filing fees, and disposition of records. Such regulations shall be available for public reference, and shall be published in such publications and at such intervals as the clerk of court deems appropriate.

**(c) Custody and Disposition of Exhibits and Depositions.** Local Rules W.D. Wash. CR 79(g) controls the custody of exhibits and depositions.

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## **RULE 5005-1. ELECTRONIC CASE FILING**

**(a) Mandatory Registration.** All attorneys, panel and standing trustees and examiners appearing before the United States Bankruptcy Court for the Western District of Washington shall register in the ECF system for the purpose of filing papers electronically.

**(b) Electronic Filing.** Unless otherwise ordered by the court, electronic filing is mandatory for all attorneys, trustees and examiners in all cases consistent with technical standards, if any, established by the Judicial Conference of the United States. The clerk of court may accept documents for filing, establish electronic service requirements, issue notices, serve orders and otherwise specify practices and procedures in electronic case management consistent with the Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means ("Electronic Filing Procedures"), as approved by the court from time to time through general orders.

(1) The electronic filing of a pleading or other paper in accordance with the Electronic Filing Procedures is entry of that pleading or other paper on the docket kept by the clerk of court under Interim Fed.R.Bankr.P. 5003.

(2) All orders, decrees, judgments, and proceedings of the court shall be entered in accordance with the Electronic Filing Procedures which shall constitute entry of the order, decree, judgment, or proceeding on the docket kept by the clerk of court under Interim Fed.R.Bankr. P. 5003.

**(c) Service of Documents.**

(1) Whenever a pleading or other paper is filed electronically in accordance with the Electronic Filing Procedures, the filing party will be automatically sent a Notice of Electronic Filing by electronic means at the time of docketing. All other parties in the case who are ECF participants will be sent the Notice of Electronic Filing by electronic means either at the time of filing or on a daily basis. Pursuant to Fed.R.Civ.P. 5(b)(2)(E), receipt of the Notice of Electronic Filing generated by the court's electronic case filing system is the equivalent of service of the pleading identified in the notice on persons who have consented to electronic service.

(2) Unless otherwise ordered, the request for and receipt of a password from the court for use of the ECF System is a request for, and consent to, electronic service pursuant to Fed.R.Bankr.P. 9036, 7005, and Fed.R.Civ.P. 5(b)(2)(E); provided that, notwithstanding Fed.R.Bankr.P. 9036, in accordance with Fed.R.Civ.P. 5(b)(2)(E) and Fed.R.Civ.P. 5(b)(3), service by electronic means is complete on transmission unless the party making service learns that the attempted service did not reach the person to be served. A party may make service pursuant to Fed.R.Civ.P.5(b) through the court's transmission facilities.

(3) The filing party shall serve the pleading or other paper upon all non-ECF participants entitled to notice or service in accordance with the applicable rules. Proof of service shall be filed with respect to service on all non-ECF participants entitled to notice; however, the proof of service may be filed electronically in accordance with the Electronic Filing Procedures with the representation, by the filer, that evidence of service is being maintained at the office of the filer.

(4) Notwithstanding the foregoing provisions of this section, conventional service of documents in hard copy is required in accordance with Fed.R.Civ.P. 4, Fed.R.Civ.P. 45, Fed.R.Bankr.P. 7004, Fed.R.Bankr.P. 9014(b), and Fed.R.Bankr.P. 9016, any order for conventional service issued by the court, or where otherwise specifically required by the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure.

**(d) Electronic Signature; Affidavits.**

(1) The electronic filing of a petition, pleading, motion or other paper in the ECF system by the participant or an authorized employee of the participant's office shall constitute the signature of that participant under Fed.R.Bankr.P. 9011 and shall bind the party or parties represented by that participant.

(2) Pleadings, affidavits, and other documents that must contain original signatures or that require verification under Fed.R.Bankr.P. 1008 or an unsworn declaration as provided in 28 U.S.C. § 1746, shall be filed electronically. The original signed document, in hard copy or electronic form, shall be maintained by the attorney of record or the party originating the document for a period not less than 5 years. Upon request, the original document must be provided to other parties or the court for review. The pleading or other document electronically filed shall indicate a signature; e.g., "/s/."

(3) A stipulation or other document requiring the signature of more than one party shall be electronically filed as follows: (A) the filer shall confirm that the content of the document is acceptable to all persons required to sign and shall obtain actual signatures of all parties to the document; (B) the filer shall file the document electronically, indicating the signatories, e.g., "/s/"; (C) the filer shall retain documentation, in hard copy or electronic form, evidencing the authority to affix the signatures of all other parties as set forth in Paragraph (d)(2), above. Fed.R.Bankr.P. 9011 shall apply to all signatories, not just the filing participant. In addition, the filing party, by filing the document in accordance with this provision, represents that all signatories indicated have approved the form of the document.

**(e) Orders.**

(1) Proposed orders filed in accordance with Local Bankruptcy Rules. 9013-1(d)(1) and 9013-1(i) shall be filed electronically as an attachment to the motion.

(2) Original orders that are ready for the judge's signature, including orders filed pursuant to Local Bankruptcy Rules 9013-1(f)(2) and 9013-1(g)(2), may be filed electronically by docketing the order as a "received unsigned order."

(3) Received unsigned orders filed in accordance with this rule shall include the words "*ex parte*" in the title of the pleading and in the docket entry if they are being filed without notice in accordance with Local Bankruptcy Rule 9013-1(g).

**(f) Documents Filed Conventionally.**

The following documents shall be filed conventionally and not electronically unless specifically authorized by the court:

(1) *Documents to be Filed under Seal.* A motion to file document(s) under seal shall be filed electronically; however, the actual document(s) to be filed under seal shall be filed conventionally, with a paper copy of the order attached.

(2) *Trial Exhibits.* Exhibits for trials and evidentiary hearings shall be submitted in accordance with existing rules or as ordered by the court.

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## **RULE 5005-2. CONVENTIONAL FILING**

(a) **Return Copies of Documents Filed.** A person seeking the return by mail of a conventionally filed claim or voluntary petition shall submit an additional copy of the document requested, together with a self-addressed, stamped envelope. Copies of all other documents, including copies of orders, must be printed from the ECF system or through the court's public access service, PACER.

(b) **Facsimile Filing.** Local Rules W.D. Wash. CR 10(d) applies to all cases and adversary proceedings.

(c) **Filing papers - Pages exceeding 50 in Number.** When documents that exceed 50 pages, including exhibits, are filed in paper form, the filer shall provide an electronic PDF version of the document on a 3.5 inch disk or CD-Rom disk at the time of filing. If the PDF file is more than two megabytes in size, it must be separated into two-megabyte segments. Each PDF file shall be clearly labeled to identify the sequence of documents to be filed.

(1) *Service.* Pleadings or other documents that are filed conventionally or on a 3.5 inch disk or on a CD-Rom disk rather than electronically shall be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Western District of Washington except as otherwise provided by order of the court.

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## **RULE 5010-1. REOPENING CASES**

(a) **Motions to Reopen.** A motion to reopen a case shall state the purpose for the reopening and shall be noted for hearing in accordance with Local Bankruptcy Rule 9013-1, with notice to the case trustee and any affected parties. The notice shall state whether assets were administered in the case, whether a deadline was established for filing proofs of claim, and whether a trustee needs to be appointed.

(b) **Trustee's Motion to Reopen.** A motion to reopen a case to administer assets may be brought by the United States trustee on an *ex parte* basis.

(c) **Filing Fee.** Except as otherwise ordered by the court, any filing fees prescribed by 28 U.S.C. § 1930(b) and the Judicial Conference of the United States are due at the time the motion is filed.

(d) **Reopening by Clerk of Court.** Local Bankruptcy Rule 5003-1(a)(4) applies.

(e) **Reclosing.** Cases reopened for any purpose other than to administer assets may be reclosed by the clerk of court 60 days after reopening unless matters are then pending.

#### **Committee Comment**

The last sentence to (a) is to ensure that a trustee be appointed in reopened cases where there may be assets to administer.

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#### **RULE 5011-1. WITHDRAWAL OF REFERENCE**

(a) **Caption.** A motion for withdrawal of reference shall be designated: "Motion for Withdrawal of Reference."

(b) **Filing and Service of Papers.** The motion, response and reply documents, including memoranda and supporting materials as required by Local Rules W.D. Wash. CR 7(b) shall be filed with the clerk of court of the bankruptcy court. Any motion for withdrawal of reference shall be filed and served promptly after service of any pleading or document in which the basis for the motion first arises. Response documents shall be filed and served no later than 14 days after service of the motion for withdrawal. Reply documents, if any, shall be filed and served no later than 5 days after service of any response.

(c) **Transmittal of Documents to District Court.** Within 5 days after expiration of the time for filing documents as provided in subsection (b) of this rule, the clerk of court of the bankruptcy court shall transmit all motion documents that have been filed with the bankruptcy court to the district court. All further documents pertaining to the motion for withdrawal shall be filed with the clerk of court of the district court. Except as otherwise ordered by the bankruptcy court or district court pursuant to a stay entered in accordance with Fed.R.Bankr.P. 5011(c), parties shall continue to file with the clerk of court of the bankruptcy court all documents relating to other matters in the bankruptcy case or proceeding.



**(d) Proceedings in District Court.** A motion for withdrawal of reference shall be assigned to a district court judge in accordance with the district court's usual system for assigning civil cases. The clerk of court of the bankruptcy court shall note the matter on the district court judge's motion docket for the Friday immediately following electronic transmittal of all documents from the bankruptcy court. Unless otherwise ordered by the district court, a motion to withdraw the reference will be decided by the court without a hearing. A party desiring oral argument should so indicate by typing "ORAL ARGUMENT REQUESTED" in the caption of its motion or responsive memorandum. The district court may in its discretion grant or deny the motion in whole or in part, and may make such orders as it deems appropriate for the orderly disposition of the case or proceeding. Upon entry of a dispositive order by the district court, the clerk of court of the district court shall forward a copy of the order to the parties and notify the clerk of court of the bankruptcy court.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted in time periods less than 8 days.

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#### **RULE 7004-1. SERVICE OF PROCESS**

The plaintiff shall file a certificate of service within 14 days after service of a summons and complaint has been effected.

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#### **RULE 7004-2. SUMMONS**

The clerk of court will issue to the plaintiff a completed summons for service upon each defendant. This paragraph does not excuse compliance with Fed.R.Bankr.P. 7004 or Local Bankruptcy Rule 7004-1.

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#### **RULE 7016-1. PRE-TRIAL PROCEDURES**

**(a) Pretrial Conferences.** Unless excused by the court, counsel and any unrepresented parties shall attend a pretrial conference at the date and time set forth on the summons. The purpose of the pretrial conference shall be to review the nature of the case, the prospects for settlement or alternative dispute resolution, to set a trial date and deadlines

for discovery, dispositive motions, pretrial orders, and trial briefs, and to resolve any other matters appropriate to the circumstances of the case.

**(b) Pretrial Orders.** If the court requires a pretrial order, Local Rules W.D. Wash. CR 16(h) through (m) and CR 16.1 shall apply, with the exception that the following deadlines shall be observed unless otherwise ordered by the court:

(1) *Plaintiff's Pretrial Statement.* The plaintiff's pretrial statement shall be filed no later than 20 days prior to the filing of the proposed pretrial order.

(2) *Defendant's Pretrial Statement.* The defendant's pretrial statement shall be filed not later than 15 days prior to the filing of the proposed pretrial order.

(3) *Conference of Attorneys.* The conference of attorneys shall be held not later than 5 days prior to the filing of the proposed pretrial order.

(4) *Date for Proposed Pretrial Order.* The proposed pretrial order, signed by all parties or their counsel, shall be filed no later than 5 days prior to the scheduled trial date.

#### **Committee Comment**

See LBR 9006-1: Generally Saturdays, Sundays, and legal holidays are not counted in time periods of less than 8 days.

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#### **RULE 7026-1. DISCOVERY - GENERAL**

Local Rules W.D. Wash. CR 26 through CR 37 apply to adversary proceedings and contested matters, except to the extent they are inconsistent with Fed.R.Bankr.P. 9014(c), and unless otherwise ordered.

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#### **RULE 7056-1. SUMMARY JUDGMENT**

**(a) Filing and Service.** Local Bankruptcy Rule 9013-1(d)(2)(D), (d)(5) and (d)(6) apply.

**(b) Factual Issues – Separate Statement.**

(1) Each motion for summary judgment shall be accompanied by a separately filed statement of uncontroverted facts setting forth the specific material facts as to which the moving party contends there is no genuine issue, with precise references to the evidence in the record which supports each asserted fact.

(2) Any party opposing the motion shall file a separate statement of genuine issues with the responsive papers, setting forth all material facts as to which it is contended there exist genuine issues of material fact, with precise references to the evidence in the record which establishes those genuine issues.

(3) The material facts claimed and adequately supported by the moving party will be deemed to exist without controversy except to the extent that those facts are (a) identified in the opposition's statement of genuine issues, and (b) controverted by declaration or other evidence in the record.

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**RULE 8006-1. DESIGNATION OF RECORD - APPEAL**

In appeals to the district court, parties shall file the designations of record, statements of issues, and written requests for transcripts pursuant to Fed.R.Bankr.P. 8006, and shall serve and file excerpts of the record with the district court clerk as appendices to their briefs. The appendix furnished by the appellant must include:

- (a) the items listed in Fed.R.Bankr.P. 8009(b)(1) through (8);
- (b) the transcript or portion thereof as necessary for adequate review in light of the standard of review; and
- (c) any additional items designated by the appellant.

The appendix furnished by the appellee shall include any required material that has been omitted by the appellant, plus any additional items designated by the appellee.

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## **RULE 9004-1. CAPTION AND FORM OF PAPERS**

All petitions, pleadings and other papers offered for filing shall meet the following requirements of form:

**(a) Size and Font.** All pleadings shall be in 8-1/2 x 11 inches document format, using a standard font such as Courier or Times New Roman, and shall be double spaced.

**(b) Format.** Unless otherwise modified by General Order, all pleadings shall conform to the following format:

(1) *Numbered Paper.* Except for Official Bankruptcy Forms or other forms provided by the clerk of court, each pleading shall bear line numbers in the left margin.

(2) *Top Notation.* The right side of the top of the front page of all pleadings shall contain the name of the judge assigned to the case. Motions, Notices of Hearings and Orders shall contain the additional notations required under Local Bankruptcy Rule 9013-1(d).

(3) *Caption and Title.* Each pleading shall be captioned "United States Bankruptcy Court, Western District of Washington" on the first page and shall identify the debtor's name and case number, as well as the title of the pleading indicating the purpose of the paper and the party presenting it.

(4) *Date and Signature Line for Court.* Any document requiring the signature of the court shall provide lines for the date and signature of the court. The notation "United States Bankruptcy Judge" shall be typed under the court's signature line.

(5) *Bottom Notation.* The left side of the bottom of each page of all papers shall contain an abbreviated title of the paper, followed by the page number. The right side of the bottom of each pleading or other paper shall contain the name and current mailing address and telephone number of the attorney, firm, or pro se party preparing the paper.

**(c) Linking.** Every pleading filed in response to or in connection with a motion or other initial pleading must be electronically linked to the initial pleading.

**(d) Exhibits and Attachments to Papers.** Exhibits, other than trial exhibits, including but not limited to leases, notes, and the like, which are not available in electronic form may be filed conventionally or electronically in accordance with the Electronic Filing Procedures. If filed conventionally, an exhibit should be securely fastened to the pleading to which it relates. If filed electronically, the exhibit should be linked to the pleading to which it relates. All attachments and exhibits shall be 8-1/2 x 11 inches, photo-reduced if necessary. An exhibit smaller than 8-1/2 x 11 inches shall be attached to or photocopied onto an 8-1/2 x 11 sheet of paper. All exhibits must be sequentially numbered or lettered and each page must be numbered sequentially from the first page of the first exhibit to the

last page of the last exhibit, unless otherwise ordered by the court. For example, if exhibit A is 3 pages and Exhibit B is 2 pages, the exhibit pages shall be numbered A-1, A-2, A-3, B-4, B-5 .

(1) *Trial Exhibits*. Trial exhibits should be filed conventionally, in accordance with Local Bankruptcy Rule 1007-1(d) , unless otherwise ordered by the court.

#### **Committee Comment**

The preamble to subsection (b) is necessary in light of the ongoing evolution of electronic filing and signing requirements. Subsections (2) and (4) of subsection (b) have been reordered.

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#### **RULE 9006-1. TIME COMPUTATION**

(a) **Time for Service Excluded.** All time computations prescribed or allowed by these rules EXCLUDE the time required for service, unless otherwise specified. Note that Fed.R.Bankr.P. 9006(a) generally excludes Saturdays, Sundays and legal holidays when the period of time prescribed or allowed is 8 days or less.

(b) **Calendar Days.** Time periods stated in terms of “calendar days” INCLUDE Saturdays, Sundays and legal holidays and EXCLUDE the time for service IF ACTUALLY SERVED via ECF or delivery; when the day so calculated is a Saturday, Sunday or legal holiday, the action must be taken by the last preceding day which is not a Saturday, Sunday or legal holiday.

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#### **RULE 9009-1. FORMS**

The form of all petitions, schedules, and statements shall substantially comply with the Official Bankruptcy Forms, pursuant to Fed.R.Bankr.P. 9009.

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#### **RULE 9011-1. NOTICE OF CHANGE OF ADDRESS, TELEPHONE NUMBER OR EMAIL ADDRESS**

(a) **Written Notice of Change of Address, Phone, Email Address.** Notices of changes of address, telephone number, and email address must be filed in writing within

10 days of the effective date and served on the trustee, parties requesting special notice, and all parties to any adversary proceeding.

**(b) Conclusive Address.** The address, telephone number, and email address of a party or his or her attorney, as noted on the first pleading filed by that party or attorney or as changed in accordance with subparagraph (a), shall be conclusively presumed to be the last known address, telephone number and email address of said party or attorney

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## **RULE 9013-1. MOTION PRACTICE**

**(a) Applicability.** As used herein, the term "motion" includes any motion, application, objection, or other request for an order or determination of the court, except one required to be commenced by complaint pursuant to Fed.R.Bankr.P. 7001. The provisions of this rule apply to all motions filed in cases, contested matters, and adversary proceedings, except as otherwise provided by law or by order of the court. In addition to the procedures set forth herein, practitioners should review General Orders addressing issues of electronic filing practice, as well as the court's website, for practices and procedures for individual judges.

### **(b) Placing a Motion on the Court's Calendar.**

(1) *Hearing Judge.* Motions shall be set on the calendar of the judge to whom the case or adversary proceeding has been administratively assigned, unless counsel is specifically directed otherwise by the judge's chambers.

(2) *Motion Calendars.* Motion calendars shall be held regularly in Seattle and Tacoma, and elsewhere as determined by the judges of the court (See Local Bankruptcy Rule 1072-1). Each judge will maintain a regular motion calendar. A schedule of the motion dates, times, and places for each judge's calendar shall be posted at the office of the clerk of court and on the court's website, and shall be published in such publications and at such intervals as the clerk of court deems appropriate.

(3) *Special Settings.* A party desiring an evidentiary hearing with live testimony shall obtain a special setting from the judge's secretary or scheduling clerk.

(4) *Party Responsible for Obtaining Hearing Date.* The moving party shall be responsible for obtaining a hearing date.

(5) *Confirmation of Hearings.* If oral argument on a motion is desired, counsel for any party shall docket a notice to court of intent to argue no later than 12:00 noon 3 days prior to the scheduled hearing date. Failure to confirm a hearing may result in

the motion being stricken, unless an agreed order is filed, or a default order has been signed pursuant to subsection (f)(2) of this rule.

(6) *Settlement.* Parties shall docket a notice to the court of settlement or withdrawal of a motion as soon as practicable. This provision does not excuse compliance with Interim Fed.R.Bankr.P. 2002(a)(3) or Fed.R.Bankr.P. 7041.

**(c) Notice of Motion.**

(1) *By Whom Given.* Except as otherwise provided in Local Bankruptcy Rule 2002-1(a) or other applicable rules, notice of a motion shall be given by the moving party.

(2) *To Whom Given.* The types of notices specified in Interim Fed.R.Bankr.P. 2002(a), must be given to the debtor, the debtor's attorney, the trustee, all creditors, all indenture trustees, and any persons requesting special notice under Interim Fed.R.Bankr.P. 2002(i). As to notices not specified in Interim Fed.R.Bankr.P. 2002(a), notice of motions shall be given to all parties in interest. Motions for relief from stay, use of cash collateral, and financing shall also comply with Local Bankruptcy Rules 4001-1, and 4001-2, respectively.

(3) *Contents of Notice.* Every motion shall be set for hearing, and the moving party shall give notice of the motion and the hearing. The notice may be combined with the motion, provided that (A) the caption so indicates, (B) the notice is the first part of the text of the pleading, and (C) the parts are separately headed.

The notice shall clearly state (A) the date, time and place of hearing, (B) the nature of relief requested and the grounds therefor, unless the notice and motion are combined, (C) that any party opposing the motion must file and serve a written response by the response date, which shall be set out, and (D) that if no response is filed by the response date, the court may in its discretion grant the motion prior to the hearing, without further notice. The notice shall substantially comply with Local Bankruptcy Form 1(Notice of Motion and Hearing).

**(d) Motions - Requirements.**

*(1) Form of Motions, Briefs, or Memoranda*

(A) *Required Pleadings.* The moving party shall include in or with its motion (i) a statement of all reasons in support thereof, together with a memorandum of points and authorities as is necessary to support such motion, and (ii) all affidavits, declarations and photographic or documentary evidence to be presented in support of the motion.

(B) Notation of Judge, Chapter, Location, Date, Time of Hearing, and Response Date. The name of the assigned judge, the chapter under which the case is pending, and the location, date and time of hearing, and the response date shall be noted on the top right-hand corner of all papers filed in connection with and in response to the motion.

(C) Length of Memoranda. Without prior court approval, opening and responsive memoranda relating to motions for summary judgment or other dispositive motions shall not exceed 24 pages, and opening and responsive memoranda for all other motions shall not exceed 12 pages. A reply brief shall not exceed ½ the permitted length of the opening brief without prior approval of the court.

(D) Proposed Orders. A copy of a proposed order, including one requested *ex parte* or by stipulation, shall be attached as an exhibit to the motion as a separate document. Opponents may propose alternative orders in the same fashion. Orders and judgments shall contain at least one line of text on the same page as the date and signature lines and shall indicate the date and time the matter was heard or scheduled to be heard. Original orders should not be filed in advance of the hearing nor filed electronically as *received unsigned orders*, except as permitted in Local Bankruptcy Rule 9013-1(f)(2).

(2) *Filing and Service - Time.*

(A) In adversary proceedings and contested matters, the motion, and all supporting memoranda of law, briefs, and other documentation shall be filed and served with the motion upon all parties in interest.

(B) Proof of any conventional (non-ECF) service of the notice and the motion shall be filed by the response date.

(C) Objections to claims shall be filed and served at least 30 days preceding the date fixed for hearing. Objections to claims shall also comply with Local Bankruptcy Rule 3007-1.

(D) Motions for summary judgment, relief from stay, and lien avoidance shall be filed and served at least 24 days preceding the date fixed for hearing. Motions for Relief From Stay shall also comply with Local Bankruptcy Rule 4001-1.

(E) Emergency motions for authorization to use cash collateral or to obtain credit shall be scheduled for hearing with such notice as the court shall prescribe, in accordance with 11 U.S.C. § 363(c)(3) and Fed.R.Bankr.P. 4001(b) and (c).

(F) All other motions and/or notice thereof shall be filed and served upon the appropriate parties at least 21 days preceding the date fixed for hearing unless a longer period of notice is ordered by the court or prescribed by the Federal Rules of Bankruptcy Procedure or these Local Bankruptcy Rules.



(3) *Motions to shorten time.* Motions to shorten time will be granted only upon a showing of exigent or exceptional circumstances. A motion requesting an order shortening time may be granted *ex parte* in the court's discretion. The applicant's attorney shall certify in writing the efforts that have been made to give notice and the reasons why further notice should not be required. The motion requesting an order shortening time, along with the underlying motion papers and a proposed form of order shortening time, shall be filed and served on all parties entitled to notice of the underlying motion unless otherwise ordered by the court.

(4) *Copies to be Served on Chambers.* Copies of the original motion, response, and reply, including affidavits or certificates of service, whether said originals are filed conventionally or by electronic means, do not need to be provided to the chambers of the judge before whom the motion will be heard or delivered to the clerk of court's office unless the papers, together with supporting documents, in total exceed 25 pages in length, or as otherwise ordered by the court. In the event the papers and supporting documents exceed 25 pages, and unless otherwise ordered, two copies shall be timely served on the chambers of the judge before whom the motion will be heard, or delivered to the appropriate box in the office of the clerk of court. Copies shall be clearly identified with the word "COPY" appearing conspicuously on the first page.

(5) *Response Required.* Each party opposing a motion shall file and serve responsive papers not later than 7 calendar days prior to the date set for hearing. See Local Bankruptcy Rule 9006-1(b).

(6) *Reply Permitted.* Not later than 3 calendar days preceding the date set for hearing, the moving party may file and serve papers in strict reply to any response. See Local Bankruptcy Rule 9006-1(b). No additional replies will be considered by the court, unless otherwise ordered.

(7) *Noncompliance.* Failure of a party to file and/or serve the papers as required by this rule may be deemed by the court to be an admission that the motion, or opposition to the motion, as the case may be, is without merit.

**(e) Hearings.**

(1) *Appearance at Hearings Required.* Except as provided in subsection (f)(2) of this rule, appearance is required at all scheduled hearings. Failure to appear at the date and time appointed for hearing may be deemed by the court to be an admission that the motion, or the opposition to the motion, as the case may be, is without merit.

(2) *Motion Calendars Shall Not Include Oral Testimony.* The court will not hear oral testimony on the regularly-scheduled motion calendars unless approved in advance by the court. Parties desiring to submit oral testimony must seek a special setting as set forth in subsection (b)(3) herein.

**(f) Default.** If no opposition to a motion has been timely filed and served, in accordance with Local Bankruptcy Rule 9013-1(d)(5), the court in its discretion may:

(1) grant the motion by default at the hearing, or

(2) grant the motion prior to the time set for hearing, upon the moving party's *ex parte* presentation of a proposed order, accompanied by proof of the service and a declaration of no objection stating the date of service of the motion and that no objections were timely received, and forwarding an *ex parte* received unsigned order containing the date and time for which the hearing was scheduled.

**(g) Ex Parte Motions.**

(1) *Contents of Motion.* Every *ex parte* motion, except those for routine administrative orders, shall (A) allege specific facts forming the basis of the request, (B) cite the statute or rule authorizing the court to act, and (C) state specific reasons why the court should proceed without notice or a hearing. If the motion arises in an adversary proceeding or a contested matter as defined in Fed.R.Bankr.P. 9014, the moving party shall, in addition, describe (D) what immediate and irreparable injury, loss or damage will result to the movant before the adverse party or his attorney can be heard in opposition; and (E) the efforts, if any, which have been made to give notice to the adverse party and his attorney.

(2) *Ex Parte Orders.* A proposed *ex parte* order shall contain the words "*ex parte*" in its title.

(3) *Appointment of Professionals.* *Ex parte* motions for the appointment of professionals must also comply with Local Bankruptcy Rule 2014-1.

**(h) Motions for Reconsideration.** Local Rules W.D. Wash. CR 7(h) governs motions for reconsideration, except that such motions shall be filed and served within 10 days after entry of the judgment or order, and shall not be noted for hearing unless oral argument is requested by the court. The opposing party shall not respond to a motion for reconsideration unless requested to do so by the court.

**(i) Presentation of Orders.** A party presenting a proposed order at a time after the hearing on a motion shall serve copies on parties that were present at the hearing and, unless agreement is reached as to the form of the order, shall give at least 7 days' notice of the time, date and place of presentation of the proposed order.

### **Committee Comment**

See LBR 9006-1: Saturdays, Sundays, and legal holidays are not counted in time periods of less than 8 days.

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**RULE 9015-1. JURY TRIAL**

**(a) Applicability of Certain Federal Rules of Civil Procedure and District Court Local Rules.** Fed.R.Civ.P. 38, 39, 47-51, and 81(c) (insofar as applicable to jury trials) and Local Rules W.D. Wash. CR 38, 47, 51, apply in cases and proceedings.

**(b) Demand for Jury Trial.** Demand for a jury trial shall be made in accordance with Local Rule W.D. Wash. CR 38(b) and shall appear in the caption as set forth in Local Bankruptcy Rule 9004-1(b)(3), and be made:

(1) on either the plaintiff's adversary proceeding cover sheet, or application for removal; and

(2) on either a party's first pleading, or within 30 days of the filing of a removal application (pursuant to Fed.R.Bankr.P. 9027 and Local Bankruptcy Rule 9027-1), whichever is earlier.

**(c) Consent to Have Trial Conducted by Bankruptcy Judge.**

(1) If there is a right to jury trial and a demand under Fed.R.Civ.P. 38(b) is timely filed, the parties shall consent or not (28 U.S.C. § 157(e)) to have the trial conducted by the bankruptcy judge by filing a statement of consent or withholding of consent by the later of the time for answer or reply, if the demand is made in a complaint or cross- or counter-claim, or 20 days after the demand is made.

(2) In any proceeding in which a demand for a jury trial is filed, the bankruptcy judge shall determine whether the party has a right to a jury trial and whether the demand was properly filed. If so, the bankruptcy judge shall preside at the jury trial if all parties consent. If there is no consent, the bankruptcy judge shall conduct pretrial proceedings up through lodging of the pretrial order, unless the reference is withdrawn.

**(d) No Right Created.** This rule does not expand or create any right to jury trial where the right does not otherwise exist.

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**RULE 9021-1. JUDGMENTS & ORDERS - FORM AND ENTRY OF**

**(a)** Unless the court directs otherwise, all orders, findings of fact and conclusions of law, and judgments shall be prepared by the prevailing party.

(b) The judges of the court may sign orders, findings of fact and conclusions of law, judgments and other pleadings requiring their signature by electronic means, and such electronic signatures shall have the same effect as a handwritten signature. Any pleading signed by a judge, whether by hand or electronically, that is not dated shall be deemed to be dated as of the date the pleading is entered on the docket.

(c) A proposed form order or judgment, including one requested *ex parte* or by stipulation, must be filed on a document separate from its attendant motion or stipulation. Orders and judgments shall contain at least one line of text on the same page as the date and signature lines. Orders and judgments shall indicate the date and time the matter was heard or scheduled to be heard.

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**RULE 9027-1. REMOVAL/REMAND**

(a) **Notice of Removal.** A notice of removal required to be filed in the Western District of Washington pursuant to Fed.R.Bankr.P. 9027 shall be filed with the clerk of court of the Bankruptcy Court, and shall be accompanied by a filing fee as required for adversary proceedings.

(b) **Motions to Remand; Further Pleadings.** Any motion to remand shall be served and filed within 10 days of the notice of removal, and noted for hearing in accordance with Local Bankruptcy Rule 9013-1. Unless a motion for remand is filed, those parties who have not answered shall do so within 20 days of the notice of removal and all parties shall promptly reply to any cross- or counter-claims.

(c) **Report of Proceedings.** The removing party shall, within 20 days of the notice of removal, or, if a motion to remand is filed prior to the expiration of such 20-day period, 10 days after the entry of an order denying the motion to remand, file a report of the proceedings in the court from which the action was removed. The report shall list the operative pleadings, including the complaint, answer, and any other pleadings framing the issues to be decided (complaints, answers, etc., superseded by amended pleadings shall not be listed), any summary judgment or other orders which dispose of all or part of the action, and any pending unresolved motions which the parties intend to present to this court (and supporting and opposing pleadings). The following documents are to be attached to the report as separate exhibits (Local Bankruptcy Rule 9004-1(d) applies):

- (1) a copy of the docket of the removed action;
- (2) each identified pleading; and
- (3) the certification required by Local Rule W.D. Wash. CR 101(b).

**(d) Supplementing the Report.** Other parties may supplement the removing party's report in the same format within 10 days of its filing. At any time during the pendency of the removed action, the court may require the parties to file additional pleadings from the proceedings in the court from which the action was removed.

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#### **RULE 9029-1. LOCAL RULES - GENERAL**

These Local Rules of Bankruptcy Procedure (herein "Local Bankruptcy Rules") govern practice and procedure in the United States Bankruptcy Court for the Western District of Washington. To comply with the uniform numbering system prescribed by the Judicial Conference of the United States, the numbering sequence generally coincides with that of the Federal Rules of Bankruptcy Procedure. These rules supersede all previous local rules and general rules of the United States Bankruptcy Court for the Western District of Washington. Except to the extent inconsistent with these rules, general orders, administrative orders, and administrative regulations are not superseded and remain in effect. These rules shall apply to all cases and proceedings pending in this court on and after July 1, 2008.

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#### **RULE 9029-2. LOCAL RULES - DISTRICT COURT**

The Local Rules of the United States District Court for the Western District of Washington (herein "Local Rules W.D. Wash.") are rules of the United States Bankruptcy Court for the Western District of Washington, except as they may be inconsistent with Title 11, United States Code (herein "Bankruptcy Code"), the Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules.

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#### **RULE 9029-3. FEDERAL RULES OF BANKRUPTCY PROCEDURE**

The Federal Rules of Bankruptcy Procedure, inclusive of any Interim Federal Rules of Bankruptcy Procedure (herein "Fed.R.Bankr.P." and "Interim Fed.R.Bankr.P.", respectively) are rules of the United States Bankruptcy Court and govern procedure in cases under Title 11, United States Code. On adoption of Federal Rules of Bankruptcy Procedure superseding the Interim Federal Rules of Bankruptcy Procedure, all references in these Local Bankruptcy Rules to the Interim Federal Rules of Bankruptcy Procedure will be deemed to refer to the Federal Rules of Bankruptcy Procedure.

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**RULE 9037-1.            PRIVACY PROTECTION**

**(a)     Privacy for Electronic Filings.** To protect privacy and security concerns relating to the electronic filing of documents and the public availability of documents filed electronically, Fed.R.Bankr.P. 9037 limits the information that may be disclosed in a filing. Documents filed under seal as required by Fed.R.Bankr.P. 9037 shall be filed in accordance with the provisions in Local Bankruptcy Rule 5005-1(f)(1).

**(b)     Procedure to Seal or Redact Protected Private Information from the Docket.** If a document is filed that discloses protected private information, a party seeking to expunge that document from the publicly accessed electronic docket may file a motion in accordance with Local Bankruptcy Rule 9013-1 seeking to have the document sealed. Upon receipt of such a motion, the clerk shall temporarily block access to the document at issue pending the court's determination of the motion.

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**RULE 9074-1.            TELEPHONE OR VIDEO CONFERENCES**

When an issue is deemed by the court to be capable of resolution through telephonic or video hearing, the court may, upon request of counsel, or on its own motion, conduct a telephonic or video hearing in the interests of judicial economy.

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## **Appendix A to Local Bankruptcy Rules**

### **UNITED STATES BANKRUPTCY COURT WESTERN DISTRICT OF WASHINGTON Effective July 1, 2008**

#### **GUIDELINES FOR CASH COLLATERAL AND FINANCING STIPULATIONS**

The judges of this district are often requested to rule on requests by debtors (or Chapter 11 trustees) for authority to enter into cash collateral and financing stipulations and agreements with secured creditors (e.g., under §§ 363(c)(2) or 364(c) (all section references are to the Bankruptcy Code, 11 U.S.C.)). These stipulations and agreements frequently contain provisions that the judges will not normally approve. In an effort to provide guidance to debtors and secured creditors in these circumstances, the judges have adopted the following guidelines.

Except as set forth below, these guidelines apply both to interim and to final requests for use of cash collateral or for authority to enter into a financing arrangement.

- A. The following **will not normally be approved in an interim order**, and must be identified and justified in final requests (see C, below):
1. Cross-collateralization clauses, i.e., clauses that secure prepetition debt with postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.
  2. Provisions or findings of fact that bind the estate (or all parties in interest, or parties not stipulating) with respect to the validity, perfection or amount of the secured party's lien or debt.
  3. Provisions or findings of fact that bind the estate (or all parties in interest, or parties not stipulating) with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the stipulation. This would include, for example, an order approving a stipulation providing that the secured party's lien is a "first-priority" lien.
  4. Provisions in an **interim order** that permit the secured party's lien to (i) attach to unsecured property of the estate, or (ii) have priority over other existing secured creditors in property of the estate that is already subject to a secured creditor's lien. *See* § 364(c)(2) and (3).
  5. Waivers of § 506(c).

6. Provisions that operate expressly or as a practical matter to divest the debtor, or any other party in interest, of discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.
7. Releases of liability by the debtor of any claim or cause of action against the secured creditor, including without limitation (i) for the creditor's alleged prepetition torts, breaches of contract, or lender liability, (ii) releases of prepetition or postpetition defenses and/or counterclaims, and (iii) releases of any avoidance actions arising under the Bankruptcy Code.
8. Automatic relief from the stay of § 362(a) upon the debtor's default under the cash collateral or financing agreement or stipulation, conversion to chapter 7, or the appointment of a trustee.
9. Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code, including without limitation, claims arising under §§ 506(c), 544, 545, 547, 548, and 549.
10. Waivers, effective on default or expiration of the term of the agreement or stipulation, of the debtor's right to move for a court order pursuant to § 363(c)(2)(B) authorizing the use of cash collateral in the absence of the secured party's consent.
11. Carve outs for administrative expenses that do not treat all professionals equally or on a pro rata basis.
12. Provisions that create an unreasonably short limitation period for the debtor or any other party in interest (including a successor trustee) to bring claims or causes of action against the secured creditor.
13. A finding without supportive evidence to the effect that in consenting to the use of cash collateral or postpetition financing, the secured creditor is acting in good faith.
14. Provisions applicable in the event of dispute or default under the agreement that place venue in any other court.
15. Provisions applicable in the event of a dispute or default under the agreement wherein the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, or the right to a jury trial.
- (p) Provisions applicable in the event of a dispute or default authorizing the financing party or anyone else to sue in the name of the debtor.



B. The following provisions will normally be approved:

1. Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default, appointment of a trustee, or conversion to another chapter .
2. Securing any new advances or postpetition diminution in the value of the secured party's collateral with a lien on postpetition collateral of the same type as the secured party had prepetition, if such lien is subordinated to the compensation and expense reimbursement allowed to any trustee thereafter appointed in the case.
3. In connection with an order entered at a final hearing, securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration of a superseding chapter 7 case.
4. Reservation of rights under § 507(b), unless the stipulation calls for modification of the Bankruptcy Code's priorities in the event of conversion to chapter 7. *See* § 726(b).
5. Reasonable reporting requirements.
6. Reasonable budgets and use restrictions.
7. An expiration date for the term of financing or use of cash collateral under the agreement or stipulation.

(c) **In all applications** for court approval of a cash collateral or financing agreement or stipulation, **counsel for the debtor (or trustee) must certify** whether the agreement contains any provision listed in part A, identify any such provision, and explain its justification.